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1 Cause Order?

2 A. No, sir.

3 Q. Were you aware at any time that one of  
4 the responses you gave or actually the response  
5 that you did not give, specifically the response  
6 to question 10 that you omitted, was part of the  
7 Show Cause Order?

8 A. I was not aware until you just said it  
9 and that horrifies me.

10 Q. Did you ever talk with Kurtis about  
11 the Show Cause Order?

12 A. Briefly on a couple of occasions, in  
13 passing, very few specifics.

14 Q. Do you remember when those  
15 conversations occurred?

16 A. This will be funny to tell you, but I  
17 don't have my position at the company because of  
18 this matter. So I learned then and that would  
19 be, I think, June sometime.

20 Q. And you had a couple of conversations  
21 with respect to your ongoing employment at

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1 Avatar?

2 A. Correct.

3 Q. And that was the only time you had a  
4 conversation with Kurtis in which you discussed  
5 the Show Cause Order?

6 A. There would be one earlier  
7 conversation where I think I said, How's it  
8 going? This would be earlier. And he's really  
9 very low-keyed anyway, and as I'm not in the loop  
10 -- we're not close. He's a nice man and we work  
11 together but he wouldn't have any reason to give  
12 me specifics.

13 I said, Can I do anything to help? I  
14 write a mean letter, a good letter. Not mean as  
15 in angry. I said, Is there anything I could be  
16 doing?

17 He said, No, we've got it handled.  
18 That would be it. Five minutes. No, not five,  
19 maybe a three-minute exchange. Again, you could  
20 sense that something was happening and I didn't  
21 get any specifics.

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1 Q. I have a couple of questions where I  
2 want to close the loop on some things that we  
3 discussed earlier and then we will take a quick  
4 break. We may have one or two more questions for  
5 you. Probably will. So we're close to the end  
6 of this.

7 A. Fine. Great.

8 Q. You mentioned earlier that when you  
9 were doing your training, one of the things you  
10 did was data entry?

11 A. Correct.

12 Q. What kind of data were you entering?

13 A. Oh, just the simple mechanics of the  
14 -- it's really very simple. It's all just  
15 numbers so everybody -- their address, their  
16 name, their birth date is an important part of  
17 their code. It's what puts them on the  
18 electronic file, if you will, what makes them a  
19 customer. I don't remember more than that. It  
20 took about -- well, I mean it took me three  
21 minutes a customer. It takes a good -- I suppose

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1 you could do it in one minute if you're pushing.

2 Q. So this is the information about a  
3 customer after Business Options had already  
4 signed them up?

5 A. Correct.

6 Q. How long did you do data entry?

7 A. I had to do ten as part of my  
8 training. I think I knocked that out in a day.

9 Q. You mentioned earlier today that you  
10 had listened to a tape of a verifier and that  
11 that verifier was later terminated?

12 A. Correct.

13 Q. Do you remember when that was?

14 A. I can't say for certain. It was in  
15 the later half of my tenure there. It was very  
16 routine matter. I can't tell you for sure.

17 Q. Did you also mention that that  
18 verifier was tardy?

19 A. As per my recollection this was just  
20 a -- I just don't recall specifically. I do seem  
21 to remember other problems.

1 Q. Other than what was on the tape?  
 2 A. Correct.  
 3 Q. Do you remember what was on the tape?  
 4 A. I don't specifically.  
 5 Q. Was it your decision to terminate that  
 6 verifier?  
 7 A. I believe it was. I don't recall if  
 8 it was requested of me. Again, any manager who  
 9 requested an employee be terminated, I would  
 10 agree or not agree. And if I did not agree, it  
 11 wouldn't happen. And if I did, it would.  
 12 Q. Did you talk to that verifier yourself  
 13 when you terminated that verifier?  
 14 A. I don't think I did. I don't have  
 15 recollection of that. No, I can say pretty  
 16 confidently that I did not.  
 17 Q. How did you terminate him or her?  
 18 A. I probably turned it over to director  
 19 of personnel, I'm guessing.  
 20 Q. The director of personnel for Buzz  
 21 Telecom?

1 A. I believe, yes.  
 2 Q. Okay. And then the director  
 3 terminated that verifier?  
 4 A. Again, it would have been -- yes, I'm  
 5 assuming because it would have happened without  
 6 my specific knowledge.  
 7 Q. Do you have a memory of terminating  
 8 any other verifiers?  
 9 A. No, I don't.  
 10 Q. You also mentioned earlier today about  
 11 executive council meetings. I think that was the  
 12 term you used.  
 13 A. Yes.  
 14 Q. Who was present at these executive  
 15 council meetings?  
 16 A. The president, the three vice  
 17 presidents, and someone to take notes.  
 18 Q. The president would have been Keanan?  
 19 A. Correct.  
 20 Q. The vice presidents were you --  
 21 A. Correct.

1 Q. And who else?  
 2 A. Liz.  
 3 Q. Elizabeth Rosas?  
 4 A. Correct.  
 5 Q. And who was the third vice president?  
 6 A. For a while it was a man named Mike  
 7 Norville (phonetic). He was just over the sales.  
 8 He had nothing to do but sales.  
 9 Q. And who was the note taker?  
 10 A. It varied. Amy Dickson for a while.  
 11 Q. Did Kurtis ever attend these executive  
 12 council meetings?  
 13 A. I believe he did early on. He was --  
 14 yes, the answer is yes, early in the my term  
 15 there. And eventually then, he was not part of  
 16 that.  
 17 Q. What office did he hold at the time  
 18 that he attended the executive council meetings?  
 19 A. Same. He was the chairman of the  
 20 board.  
 21 Q. Was it a regular occasion that the

1 chairman of the board attended these executive  
 2 council meetings?  
 3 A. It was not.  
 4 Q. Do you recall how often these meetings  
 5 took place?  
 6 A. Every Monday.  
 7 Q. Did you already say that?  
 8 A. If I did, I'm happy to repeat it.  
 9 Q. If you did, I'm happy to apologize.  
 10 What topics did you discuss or the executive  
 11 council discuss at these meetings?  
 12 A. Just business, how we're doing. It  
 13 was a good way to get -- we were very separate,  
 14 meaning we had our areas of responsibility and so  
 15 this is the one chance for those very separate  
 16 areas just to establish communication. For  
 17 example, Gene, we need more sales reps. Well,  
 18 Keanan, maybe I'll PO for some more ad money,  
 19 that kind of thing. Or, we're dying over here, I  
 20 need more customer service reps. Or, Mike, I  
 21 need you to get your manager to get people to be

1 more on time. I don't want to see so much  
2 tardiness in my office. That kind of stuff.  
3 Q. Would this have been the appropriate  
4 forum for you to request staff from other groups,  
5 for example, when you were doing your mailing of  
6 the letter?

7 A. No. It didn't happen here.

8 Q. You recall that it did not happen?

9 A. Yes. I do recall, that did not  
10 happen.

11 Q. Was there any discussion at the  
12 executive council meeting of the response to the  
13 FCC's November 1st letter?

14 A. None whatsoever. It just wasn't that  
15 kind of meeting. None of those matters were ever  
16 even broached.

17 Q. Could you clarify what "those matters"  
18 are?

19 A. As you say, regulatory matters, FCC  
20 matters. It was just an internal session for --  
21 like I said, we were -- I don't have anything to

1 do with the customer service people as far as my  
2 dealings. I'm a vice president but I can't order  
3 them. I have no control over them. They're not  
4 my responsibility.

5 But if I had an opinion about how  
6 something should happen or a suggestion, this  
7 would be my opportunity to say it. Or again, if  
8 the other areas of the company needed something  
9 from the personnel department, which was me. So  
10 when I said "those matters," anything that  
11 pertains to outside the company, which a  
12 regulatory matter would be. It just wasn't part  
13 of an executive council.

14 Q. When were those outside matters  
15 discussed?

16 A. Never with me.

17 Q. Were those primarily discussed in the  
18 corporate affairs office between Kurtis and Ms.  
19 Dennie and Ms. Green?

20 A. Solely as I would understand it. And  
21 I would speculate Keanan as well.

1 Q. Did Keanan have any responsibility  
2 over the corporate affairs office?

3 A. I guess I'm assuming he did.

4 Q. But you don't know that?

5 A. Actually, I don't think he did now  
6 that I think of it. I believe that's Kurtis's  
7 area. I'm going to amend that answer. The  
8 corporate affairs office actually moved into  
9 another office. And yes, it wasn't close to  
10 Keanan. So I'm going to say it was really  
11 Kurtis. From my understanding, it was really  
12 Kurtis's realm, not Keanan's.

13 Q. When was the office moved?

14 A. I'm going to say February.

15 Q. Was it moved over to the Avatar  
16 office?

17 A. Correct. And I might be wrong there.  
18 It might have been January.

19 Q. Your best recollection is that it was  
20 the January-February time frame?

21 A. Right. Just after the holiday. Can I

1 say that?

2 Q. You can. Are you familiar with a  
3 company called Great Lakes Verification?

4 A. No, sir.

5 Q. FAG Verification?

6 A. Yes. I'm familiar. Sure.

7 Q. What do they do?

8 A. That would be our verification  
9 company.

10 Q. At what time period?

11 A. I don't know. Great Lakes would be as  
12 well. Right. I don't know the distinction. I  
13 don't know the dates of when each would be what.

14 Q. Do you know who the principals are of  
15 Great Lakes Verification?

16 A. No, sir.

17 Q. Who owned it?

18 A. Don't know.

19 Q. Same questions with respect to FAG?

20 A. Same answer. I don't know.

21 Q. Did you have any responsibility at

1 Business Options for generating financial  
2 records?  
3 A. Oh, no, sir.  
4 Q. Generating information that would be  
5 given to the company's accountant?  
6 A. Completely removed from my  
7 responsibility. I wasn't even allowed in that  
8 office.  
9 Q. I'm going to take a very quick break,  
10 say three minutes.  
11 (A short break was taken.)  
12 BY MR. HARKRADER:  
13 Q. You mentioned just a little while ago  
14 about the data entry that you did. What did you  
15 receive to input into the computer?  
16 A. Oh, I don't recall.  
17 Q. Was it a tape?  
18 A. Oh, no. It was just the hard data,  
19 probably like a sales slip.  
20 Q. Like a piece of paper?  
21 A. Yes. I'm guessing. But I mean that

1 would have to be what it was. It was simply the  
2 sales report, if you will, the person's name and  
3 address. They really didn't have much more than  
4 that. Yeah. It was the sales sheet. Yes. I'm  
5 remembering now as I'm remembering the sales  
6 person walking it down and delivering the stack.  
7 It was like the sales form.  
8 Q. Okay. Jumping to the executive  
9 council meetings, were those meetings  
10 memorialized?  
11 A. I don't know what that means.  
12 Q. You said there was a note-taker?  
13 A. Correct.  
14 Q. Did the note-taker then summarize what  
15 happened in the meeting?  
16 A. Yes.  
17 Q. Would the note-taker then attach the  
18 notes to that summary?  
19 A. Sure.  
20 Q. Was the summary circulated to members  
21 of the executive council?

1 A. It was.  
2 Q. Was it circulated to Kurtis?  
3 A. I imagine. I don't know for sure.  
4 Q. Who did you replace as vice president  
5 of administration?  
6 A. I think the position was open for a  
7 little bit upon my arrival, but prior to that it  
8 was William Brzycki.  
9 Q. Did you have any understanding at the  
10 time that you stepped into the vice president of  
11 administration position, why he was no longer in  
12 that position?  
13 A. I did.  
14 Q. What was that understanding?  
15 A. Well, he was just not being very  
16 effective, especially pertaining to just the  
17 proper authoritating of employees. You're over  
18 that whole human resources area, and it was my  
19 understanding that he just wasn't cutting it in  
20 that respect.  
21 Q. Did you hear about any specifics as to

1 why he wasn't cutting it?  
2 A. I'll try to recall it. He wasn't  
3 responsive to some claims of sexual harassment in  
4 the company, as one example of a specific I got.  
5 Q. Do you have any reason to know if his  
6 responsibilities as vice president of  
7 administration were the same as yours?  
8 A. I can tell you they were the same, but  
9 I don't know when this occurred, when the change  
10 occurred. But during at least some of his  
11 tenure, those corporate matters to which you've  
12 been referring were part of the VPA  
13 responsibilities that stopped being so upon my  
14 arrival.  
15 Q. And those matters would include what  
16 was later part of the corporate affairs group?  
17 A. Exactly. Worded more simply,  
18 corporate affairs office was under the VPA as I  
19 understood it. I never experienced that and I'm  
20 going on what I was told.  
21 Q. But when you took over, the corporate

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1 affairs office was not under the VPA?

2 A. It was removed from my responsibility  
3 and was at the other end of the building.

4 Q. And it was removed while Mr. Brzycki  
5 was the VPA?

6 A. I don't know exactly when, but I'm  
7 presuming so based on how long he was in that  
8 position and the little bit I know.

9 Q. Do you know if Mr. Brzycki had other  
10 responsibilities of firing employees like you  
11 did?

12 A. During his time as VPA, I know that he  
13 did have that responsibility.

14 Q. Do you know if he actually fired  
15 employees?

16 A. I'm quite certain he did.

17 Q. Do you know that for sure or are you  
18 speculating?

19 A. No. I remember talking about it with  
20 others, but I never saw it, of course. I can say  
21 with confidence that that was one of his

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1 responsibilities.

2 Q. Did he fire any verifiers?

3 A. I just don't know that.

4 Q. Did he fire telemarketers?

5 A. Yes.

6 Q. Was Mr. Brzycki working for Buzz or  
7 Business Options when you joined on?

8 A. Yes.

9 Q. What was his position then?

10 A. His actual title was corporate  
11 affairs.

12 Q. Did you have any opportunity to work  
13 with him when you joined on as VPA?

14 A. Very little.

15 Q. What were those opportunities?

16 A. Well, of course I was replacing him.

17 So that meant -- first of all -- that there was a  
18 little bit of tension. It also meant that he had  
19 the experience I needed, so I tried to glean from  
20 him what I could learn as pertains to the  
21 position. And to be quite frank, I did not find

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1 that to be productive so I didn't -- I didn't

2 apprentice under him, if you would, where that  
3 might have otherwise been productive.

4 Q. I have one more line of questioning.

5 MR. HAWA: That means ten.

6 MR. HARKRADER: Just one more line of  
7 questions, ten questions.

8 MR. HAWA: Go ahead.

9 MR. HARKRADER: And then you would  
10 double that.

11 BY MR. HARKRADER:

12 Q. Would you refer to the November 1st  
13 letter from the FCC, question 11 specifically?

14 A. Okay. I'm here. Sure.

15 Q. And the response that you gave to  
16 question 11?

17 A. Sure.

18 Q. In your December 4th letter?

19 A. The question I bothered to answer.

20 Q. Question 11 calls for the name and  
21 telephone phone number of the telemarketer. Did

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1 you include that in your response?

2 A. I did not. I did not. And I think I  
3 assumed that it would be provided by others  
4 because to be honest with you, those are under X  
5 files which I didn't have access to. So I just  
6 trusted that those X files would be called and  
7 the proper date written in. I don't want to  
8 misrepresent it. I could have probably requested  
9 to get into the X files. I just, I think,  
10 assumed others would take responsibility for  
11 that.

12 Q. Well, you included the name, so you  
13 did comply with that.

14 A. Right.

15 Q. You just didn't include the address  
16 and the phone number?

17 A. Right. And that is all in the X files  
18 which is buried and locked up and which I didn't  
19 have a key to at the time. Only corporate  
20 affairs and one individual in treasury had that  
21 access. And I kind of thought they would take

1 care of it.

2 Q. Did you follow up to see if anyone  
3 did?

4 A. I did not.

5 Q. You included roughly the date of  
6 occurrence as requested by question 11, but you  
7 did not include the customer name or telephone  
8 number?

9 A. Correct.

10 Q. Or the nature of the practice?

11 A. Correct.

12 Q. Okay.

13 A. Well, yeah, I guess I did not. That's  
14 correct.

15 Q. Was this the only such letter or the  
16 only such request that you received from Shannon  
17 Dennie? Was this the only time you received a  
18 request from Ms. Dennie or anybody else to  
19 respond to the FCC?

20 A. I sure remember no other.

21 Q. Did you receive any similar letters or

1 delayed her longer than she might have wanted. I  
2 probably got a little behind. I might have  
3 delayed it a few days, maybe a little longer. I  
4 was always behind.

5 Q. Given that the FCC letter is dated  
6 November 1st and your letter is dated December  
7 4 --

8 A. Yes. Right. I'm going to guess she  
9 had to bother me once to get to it. Again, not a  
10 reference to my lack of willingness or my  
11 appreciation for the need to do it, it was just  
12 clearly a product of my schedule.

13 MR. HARKRADER: I have no further  
14 questions at this time. I believe Mr. Hawa has  
15 some questions.

16 EXAMINATION

17 BY MR. HAWA:

18 Q. Good afternoon, Mr. Chill. I just  
19 have a couple of questions and after I ask them,  
20 my friend here will probably follow-up with  
21 questions of his own in response.

1 requests from anyone at Business Options or Buzz  
2 to respond to state inquiries?

3 A. I have no recollection of any such  
4 request.

5 Q. Do you remember how much time you took  
6 to respond to this letter from Ms. Dennie?

7 A. Clearly less than I should have, by  
8 omission of the one. I suppose the time it took  
9 to recall. I think I recall a good few minutes.  
10 Probably I needed a moment to really take a look  
11 at each point. I don't think it just rolled off  
12 the tongue. I had no one who I could really  
13 consult because at the time, none of the people  
14 who worked with me were even in the company. So  
15 I couldn't do that. Otherwise, I would have  
16 certainly checked with my director of personnel.

17 Q. When Ms. Dennie gave you the request,  
18 in whatever format she gave it to you, how soon  
19 after that did you write your responses and get  
20 it back to her?

21 A. I'm not certain, but I'm betting I

1 A lot of the questions you've got  
2 today are about disciplinary actions taken  
3 against telemarketers. As you may or may not  
4 know -- I don't know if this is directly within  
5 your realm of responsibility -- I realize I ask  
6 extremely long-winded questions, so if you need  
7 me to go back, feel free to ask me to do so. My  
8 questions are roughly about seven to eight times  
9 longer than the answers.

10 Customers have filed complaints and  
11 among the things that they've alleged is that  
12 they were led to believe that Business Options  
13 telemarketers were calling on behalf of some  
14 other company. And I know from my own  
15 perspective, what does it mean to be led to  
16 believe? Did they say it or didn't they say it.  
17 I didn't have appreciation for the realities of  
18 the telemarketing world and I think it's safe to  
19 say that neither does the FCC. And the drafter  
20 of these questions clearly did not, because the  
21 questions, based on what I'm hearing and the

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1 knowledge I have now, clearly don't have an  
2 appreciation for the realities of the  
3 telemarketing world.

4 MR. HARKRADER: Are you testifying?

5 MR. HAWA: I am not.

6 MR. HARKRADER: Do you have a  
7 question?

8 BY MR. HAWA:

9 Q. My question is -- I have arranged to  
10 spend a morning listening to telemarketers on the  
11 phone. I just wanted to get your thoughts on  
12 this issue.

13 First question: The first thing the  
14 telemarketer said was, I am calling on behalf of  
15 Business Options. We're a long distance  
16 telephone company. And the person responded,  
17 Bell South? No, Business Options. They said,  
18 You mean you're calling on behalf of Bell South?  
19 This back and forth went on.

20 So here's the question: Are customers  
21 typically confused -- or not typically -- is it

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1 common for customers to be confused about the  
2 nature of who's calling when the telemarketer  
3 calls? Is it common for them to be confused even  
4 if you have expressly said, I'm calling on behalf  
5 of Business Options, about who the company really  
6 is?

7 A. I don't really find it to be common,  
8 but I did find that it occurred as you described.

9 Q. So in terms of these telemarketers, a  
10 telemarketer when they came across a customer who  
11 was confused in that manner, could have said one  
12 time, I'm calling on behalf of Business Options,  
13 a long distance telephone company. And the  
14 customer may not have appreciated that fact. And  
15 a telemarketer -- especially a savvy one -- could  
16 realize that they fulfilled their duty to  
17 identify themselves and kind of never really  
18 clarified it. Was that a common practice or was  
19 it an uncommon practice?

20 A. Well, you ask a very germane question,  
21 and it's not an easy answer. And it's part of

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1 the challenge of answering some of these  
2 questions as I tried to represent -- I can't tell  
3 you what was wrong as per the list here on the  
4 one example I cited, just that it was wrong.

5 What you stated is exactly the trick,  
6 if you will. Has a telemarketer properly  
7 represented themselves? At what point does one  
8 properly represent themselves? If duplication is  
9 not there on the part of the customer, could you  
10 argue on behalf of their correct representation?  
11 I would tend to say no.

12 If they have not achieved  
13 understanding in the customer, then they have  
14 failed. And even though they have said it and,  
15 as you say, even repeated it twice, three times,  
16 they repeat it. So I would largely put the onus  
17 on them to accomplish that understanding.

18 Q. So then going to your response here,  
19 I'm looking at your response number -- let's  
20 start with question 7 of the FCC letter?

21 A. Sure.

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1 Q. Question 7 states, and you've already  
2 read it into the record so I'll paraphrase it,  
3 has BOI found that telemarketing employees told  
4 customers that they were representing the  
5 customer's telephone company. Likewise, question  
6 8, has BOI or its agents found -- were  
7 telemarketing employees saying they were calling  
8 on behalf of AT&T? When you read those questions  
9 and you were responding to them, you were reading  
10 those questions that said has there been an  
11 affirmative misrepresentation?

12 A. That's correct.

13 Q. Now you stated that you don't have  
14 quotas in terms of sales numbers, but is it fair  
15 to say that people have a sense of how many sales  
16 a good telemarketer or a successful telemarketer  
17 is getting versus how many sales a not so  
18 successful telemarketer is getting just by being  
19 in existence on the floor?

20 A. Each sales rep had their graphs posted  
21 that monitored their success so that we could

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1 tell at a glance every sales rep's progress and  
2 sales for the day and the week. So the answer is  
3 clearly yes.

4 Q. So the telemarketers knew whether they  
5 were doing good or not?

6 A. As a group, yes. Of course.

7 Q. You testified about the standard  
8 telemarketer script. Is it fair to say that  
9 telemarketers in the course of their  
10 telemarketing activities found themselves to be  
11 more successful by varying from the script so  
12 that they can talk naturally themselves and not  
13 read from the script? Is it fair to say that  
14 telemarketers believe that they can achieve more  
15 success if they can just talk themselves and say  
16 what they want to say rather than read from a  
17 script?

18 A. Both apply. The script is vital. And  
19 we used our drilling and our training to simply  
20 get their script to be in that natural  
21 personality as you described. There's no reason

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1 that couldn't happen. But as questions would  
2 arise and as conversation would occur, of course  
3 you were not a robot. You had to then deviate  
4 from the script using the objection handlings  
5 page as your guidance.

6 But in reality, both would apply, of  
7 course. You would have to use the script because  
8 that's your introduction to the customer. And as  
9 questions and then conversation was engaged, then  
10 you apply what you just described, that natural  
11 tone you would use.

12 Q. Now you testified a minute ago that  
13 you don't really believe that a telemarketer has  
14 achieved, for lack of a better word, a true  
15 communication until they've reached the customer,  
16 until they've repeated the name of the company or  
17 any other relevant fact that the customer is  
18 confused about until such time as the customer  
19 has understood it?

20 A. I would hold them to that standard,  
21 sure.

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1 Q. In respect to question 9 in that  
2 letter of inquiry, I just want to clarify  
3 something that I didn't think fully came out in  
4 response to a question that the FCC counsel had  
5 asked. And that is, to paraphrase again, I  
6 believe FCC counsel asked you: Is it possible  
7 that a BOI telemarketing employee told a customer  
8 to answer a third-party verifier yes or he or she  
9 would lose their job.

10 And then a follow-up question from FCC  
11 counsel was, could it have happened and gone  
12 undetected. And I think your answer was no. But  
13 I think the question that you were answering was,  
14 could it have happened, been detected by a  
15 manager or supervisor listening to an audiotape,  
16 and then not reported. So just to put a finer  
17 point on the question, could it have happened and  
18 gone undetected?

19 A. I think it's impossible to listen to  
20 every sales rep every minute, so then certainly  
21 it could have potentially happened. And you're

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1 correct, your assessment of my misduplication was  
2 exact. If it came to me, it was handled.

3 Q. When you say misduplication, the  
4 question you were answering in response to FCC  
5 counsel's question is, did a telemarketer do it,  
6 it was discovered by a supervisor or manager or  
7 whoever was listening to the audiotapes, is there  
8 a case where it wouldn't be reported if it was  
9 detected?

10 A. That's right. I did answer that  
11 question. And I still hold to that answer, that  
12 would never have occurred. Could a rep have done  
13 this without knowledge, it is possible.

14 Q. Could a rep have done it without it  
15 being detected?

16 A. Without the knowledge of the managers  
17 or the auditors or myself, that is possible.

18 Q. Question 10, did Peter Wolfe from the  
19 FCC ever call you and say, Mr. Chill, I got your  
20 response to questions 7 through 11 and you have  
21 omitted question 10?



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1 A. Counselor, no one alerted me to that,  
2 and I'm sorry as heck that someone didn't bring  
3 it to my attention that I missed a question.

4 Q. To your knowledge, did Peter Wolfe or  
5 anyone else from the FCC ever call Shannon Dennie  
6 and say --

7 A. Oh, I have no idea.

8 Q. Did Shannon Dennie ever tell you that?

9 A. Of course not. I would have plugged  
10 that in right away. It's an embarrassing  
11 oversight.

12 Q. So to your knowledge, when you  
13 responded to questions 7 through 11 and question  
14 10 was omitted, no one from the FCC ever called  
15 and said, We need more information on question  
16 10, you never answered it?

17 A. I would just like to modify how you  
18 asked that. You said I answered questions 7  
19 through 11 but omitted question 10. I did not  
20 intentionally -- I did not omit it. I didn't  
21 decide to not answer. It was a sheer oversight

1 speaking -- although I don't know for sure. I  
2 can't imagine however that she would have not  
3 brought it to my attention. And frankly, I don't  
4 know why she didn't check my work.

5 Q. But if she would have gotten a letter  
6 from the FCC saying you didn't answer question  
7 10, she would have said, Gene, why didn't you  
8 answer this question?

9 A. Well, of course. And for a few months  
10 after this happened, we were working even much  
11 closer in proximity than we had been prior when I  
12 was moved to Avatar.

13 Q. So as far as you know, you said in  
14 this response -- well, rather, the company said  
15 in this response, which included your responses  
16 to questions 7, 8, 9, and 11 and the next time  
17 you communicated with the FCC, the company  
18 communicated with the FCC, that was directly on  
19 points in the Show Cause Order?

20 A. I didn't even know I was mentioned in  
21 this.

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1 that I failed to answer it.

2 Q. You're absolutely right. What I said  
3 was omit.

4 A. Yes. I just failed to answer it and  
5 this is the first I've seen it. I'm looking at  
6 it and I'm wondering what happened. Like I said,  
7 I checked to see if I missed 11 and just  
8 misnumbered 10 and didn't get to the end. But  
9 that wasn't the case. I don't know how I did  
10 that.

11 Q. Did you ever receive a letter from the  
12 FCC saying, We received your responses, Mr.  
13 Chill, to those questions and we would like some  
14 more information. And by the way, you forgot to  
15 answer question 10?

16 A. Sir, of course not. I would have been  
17 happy to comply.

18 Q. Do you know if Shannon Dennie ever  
19 received such a letter?

20 A. If she did and didn't report it to me,  
21 that's grievous. She would have to tell me. I'm

1 Q. I understand. You said in response to  
2 -- the questions that you responded to in  
3 response to the November 1st letter of inquiry  
4 asked for supporting information and  
5 documentation. It was -- if I could fairly  
6 summarize your testimony -- you're saying that  
7 you answered the core question but you thought  
8 that supplementary documents and data would be  
9 supplied by someone else?

10 A. I assumed that.

11 Q. So you were answering the core  
12 question?

13 A. That is correct.

14 Q. Is anyone allowed to vary from the  
15 standard telemarketing script other than to  
16 respond to questions?

17 A. No one is allowed to vary from the  
18 standard script except for in the case of exactly  
19 what you said, which is when they get questions  
20 and to handle those questions.

21 Q. There was some tension with Bill

## Deposition of Gene Chill

**"We'll cover your job ANYWHERE in the country!"**

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1 Brzycki?

2 A. He wasn't effective. That's the only  
3 way to put it.4 Q. Have you talked to him since he left  
5 the company?

6 A. Never.

7 MR. HARKRADER: Other than today?

8 A. Ran into him in the hall by accident,  
9 barely recognized him.10 Q. Do you have any sense of whether he's  
11 a disgruntled employee or whether the terms of  
12 his departure were amicable or not?13 A. I think the terms of his departure  
14 were amicable. It was done professionally. I  
15 wrote up the severance agreement. I didn't  
16 determine the points. I just drafted it on  
17 behalf of my boss.18 Q. But you came in and assumed his vice  
19 presidential job and there was a seven or eight  
20 month period that you were working together and  
21 you were assuming a position that he was demoted

1 effective employee. He seemed to be very

2 ineffective. That was just the impression I was  
3 given because of the documents I was seeing.4 And I would even on occasion call him  
5 in, Bill, what's up with this? And my impression  
6 was of someone who just wasn't willing to just be  
7 responsible.

8 Q. I'll wrap it up in two seconds here.

9 I just want to revisit the telemarketing issues  
10 briefly. You drafted a letter, and I believe it  
11 was in the early part of this year, or directive  
12 or communication of some sort, directing  
13 telemarketers to immediately discontinue,  
14 politely discontinue their telemarketing pitch if  
15 it becomes clear to them at any point during the  
16 conversation that they're talking to somebody who  
17 is not aware or confused or who doesn't have an  
18 appreciation for the nature of the call.19 A. It's a policy that I wrote which was  
20 approved by the board called When to Stop the  
21 Sale.

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1 from?

2 A. Correct. And there was naturally some  
3 tension there but we were always civil.4 Q. You said that he was not responsive to  
5 a sexual harassment claim. Do you now have any  
6 knowledge -- I know that corporate affairs wasn't  
7 within the realm of your responsibility -- do you  
8 have any knowledge of whether he was doing his  
9 job in the regulatory arena, whether he was on  
10 top of all his filing, whether he was caught up  
11 on his work?12 A. The bosses would copy me on various  
13 dispatches. I don't know that it was so I would  
14 actually do anything specifically. There weren't  
15 actions that were expected of me. But because it  
16 was a personnel matter, these dispatches -- these  
17 were data that needed to go into his folder. And  
18 so -- how do I say it? It was almost in passing  
19 that I ended up learning of some of his  
20 situations just because they came to my area.  
21 And it was not my perception that he was a very

1 Q. When was that?

2 A. I don't recall, but I'm going to tell  
3 you it was in the later few months of my  
4 employment at Buzz, specifically at Buzz. So I'm  
5 going to say early part of this year, later part  
6 of 2002.

7 Q. Why did you write that?

8 A. Really addressing the very point that  
9 you described when you started asking questions.  
10 You mentioned listening to a person who simply  
11 did not duplicate even though Business Options  
12 was mentioned a few times. And I decided, after  
13 hearing a few of these examples myself, some  
14 people simply aren't bright possibly or whatever.

15 Q. Or old?

16 A. Well, that would be an alternative  
17 case. Or if there was clearly someone who was  
18 special needs of some kind. I simply did not  
19 want our company pursuing these sales. If  
20 someone was just too aged -- we have a very nice  
21 product for senior citizens so this is a nice

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1 market for us. We save them a lot of money with  
2 our competitive prices. So we're inclined to  
3 sell to senior citizens. But at some point a  
4 telemarketer needs to duplicate, needs to realize  
5 that this person simply isn't mentally present.  
6 And that happens, and I didn't want those sales  
7 pursued.

8 Q. Would you agree that even a customer  
9 that might otherwise be confused, when they heard  
10 the name telephone company, you're calling on  
11 behalf of Business Options, a long distance  
12 telephone company, do customers think of their  
13 telephone company? Do they think of the  
14 prominent telephone company? Do they think of  
15 AT&T? Do they think of Bell South or Verizon and  
16 Southwestern Bell?

17 A. I don't know if I can tell you that.

18 Q. Fair enough. But when they hear long  
19 distance telephone company, they may say, You  
20 mean AT&T? And a scrupulous telemarketer will  
21 say, No, Business Options, and then would

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1 repeatedly do so until the customer understands.  
2 Or an unscrupulous one or even one looking to  
3 make a sale and feeling they fulfilled their duty  
4 could leave it at that. I already said I'm  
5 calling on behalf of Business Options. I have no  
6 further obligation to pursue until this customer  
7 understands?

8 A. I'm not sure what your question is.

9 MR. HARKRADER: Was there a question  
10 there?

11 MR. HAWA: The question was, does that  
12 happen? The question was -- actually, let me  
13 rephrase it and basically say the question --

14 MR. SHOOK: I think if you rephrase it  
15 and put it in terms of whether he heard any tapes  
16 or had reported to him that something like what  
17 you're saying happened, and then whatever  
18 question you have --

19 BY MR. HAWA:

20 Q. Have you heard any tapes or had other  
21 reports where you have observed a telemarketer

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1 identify themselves as Business Options but a  
2 customer not fully understand it and then a  
3 telemarketer not clarify? Or even if they do  
4 clarify, not continue to clarify until the  
5 customer understands?

6 A. Very difficult question to answer in a  
7 yes or no way. Because ten calls will have  
8 different gradient levels of understanding or  
9 asking by the customer. It's expected -- my  
10 answer would be, it's expected of the  
11 telemarketer to represent their company  
12 accurately. And I would -- as I have said -- put  
13 the onus on that telemarketer to accomplish that  
14 level of understanding. And after that, it would  
15 be a judgment I would make if I felt that they  
16 had done that. To some degree I'm holding the  
17 customer also responsible who is listening. They  
18 have a phone. They pay a phone bill. They have  
19 some capacity to understand it. I drew a very  
20 clear distinction that if it was clear that this  
21 person did not have the capacity to understand

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1 because of their age or some kind of deficiency,  
2 that we were not to sell to those people. That  
3 was unscrupulous. Even the attempt to. Even if  
4 you're getting the responses, yes. Do you know  
5 what I mean?

6 MR. HAWA: Okay. Thank you, Mr.  
7 Chill. I have no further questions.

8 Do you want a couple of minutes? Can  
9 I have a couple of minutes?

10 MR. HARKRADER: Yes.

11 MR. HAWA: We'll go off the record.  
12 Thank you.

13 EXAMINATION

14 BY MR. HARKRADER:

15 Q. Mr. Chill, I have a few other lines of  
16 inquiry to follow up on. You wrote Mr. Brzycki's  
17 severance?

18 A. Correct.

19 Q. At whose direction?

20 A. Kurtis.

21 Q. Did Kurtis review it?

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1 A. Oh, yeah, I'm quite sure.  
 2 Q. Did Kurtis make any changes to it?  
 3 A. Probably.  
 4 Q. Did you have any other role in Mr.  
 5 Brzycki's severance other than drafting it?  
 6 A. Really not.  
 7 Q. Did you have any role or did you not  
 8 have any role?  
 9 A. There was no other role. I typed it.  
 10 I don't even know that I contributed to the  
 11 severance itself. I remember a discussion or two  
 12 about it, a brief discussion in the nature of,  
 13 What do you think? I wasn't part of that, but  
 14 I'm almost positive I'm the one who typed it up.  
 15 Q. Kurtis did make some changes to it?  
 16 A. Possibly.  
 17 Q. But you don't know?  
 18 A. I don't know, yes.  
 19 Q. But you certainly didn't make those  
 20 changes?  
 21 A. Oh, no.

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1 Q. Did Mr. Brzycki know that you drafted  
 2 his severance agreement?  
 3 A. I believe he did.  
 4 Q. Did you tell him that?  
 5 A. I think so. I think he and I even  
 6 discussed it on one occasion. I made sure he  
 7 felt comfortable with it. It was done very  
 8 amicably. I seem to remember him in my office  
 9 one time. We were going over a point or two,  
 10 going over the logistics of it. We were going to  
 11 buy something for him, or how to do it with a  
 12 credit card. You know what I mean? Just the  
 13 nuts and bolts of it.  
 14 Q. So Mr. Brzycki was involved in the  
 15 drafting of his severance?  
 16 A. To some degree, yes, in that respect.  
 17 There was a bit of a negotiation as I understand.  
 18 Q. Between you and Mr. Brzycki?  
 19 A. No. No. Kurtis and Bill.  
 20 Q. So would you characterize that as  
 21 cooperative?

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1 A. I felt that way.  
 2 Q. Particularly when he was in your  
 3 office discussing it?  
 4 A. My experience with him, yes. It was  
 5 always civil. It was professional. He and I  
 6 knew we had differences. I didn't hide that fact  
 7 from him. I didn't attend his going away party.  
 8 We weren't chums. I simply typed up, tried to  
 9 help create a fair, just crediting for the time  
 10 he spent with the company. And that was all I  
 11 knew about it.  
 12 Q. Did Mr. Brzycki seem to appreciate  
 13 your efforts in that regard?  
 14 A. I couldn't tell. I didn't get lots of  
 15 appreciation from Mr. Brzycki.  
 16 Q. You talked to Mr. Hawa earlier about  
 17 what you understood to be a lack of any follow-up  
 18 from the FCC with respect to yours and Ms.  
 19 Dennie's responses to the FCC inquiry letter.  
 20 A. Uh-huh.  
 21 Q. Do you know for a fact whether Ms.

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1 Dennie or anyone else at BOI received any  
 2 follow-up from the FCC?  
 3 A. I don't know for a fact.  
 4 Q. So when you were saying earlier that  
 5 she would have told you about it, you were simply  
 6 speculating?  
 7 A. A pure presumption.  
 8 Q. You also spoke earlier about your  
 9 responses with Mr. Hawa and you said that you  
 10 were under the impression that others within  
 11 Business Options would supply data and documents  
 12 that would support BOI's response?  
 13 A. Correct.  
 14 Q. I understood from our conversation  
 15 that you had expected others to contribute  
 16 additional data particularly with respect to your  
 17 response to question 11.  
 18 A. I knew that corporate affairs -- this  
 19 was a corporate affairs matter. I probably just  
 20 assumed that that office would take care of  
 21 everything.

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1 Q. What documentation did you assume that  
2 anyone else in BOI would contribute to BOI's  
3 response?

4 A. Whatever they needed. I didn't have  
5 any specific focus on anything.

6 Q. Did that included any documentation  
7 that would be responsive to questions 7 through  
8 11?

9 A. Sure.

10 Q. Would you have terminated an employee  
11 who expressly represented that they -- a BOI  
12 telemarketing employee who expressly represented  
13 that they represented AT&T to a customer?

14 A. Oh, immediately.

15 Q. And the same would be true if that  
16 telemarketer expressly represented that they  
17 represented any other telephone company besides  
18 Buzz Telecom or Business Options?

19 A. The very mention of another phone  
20 company in any context almost got you a  
21 guaranteed termination. Just having said the

1 yourself with anybody or anything else.

2 Q. Would you have terminated -- I assume  
3 you would have terminated any such employee on  
4 the spot?

5 A. On the spot.

6 Q. Regardless of any past transgressions?

7 A. If this was an employee of sterling  
8 record up to that point, whose cousin was raped  
9 the prior week or something -- you know what I  
10 mean -- and could tell me something, tearfully  
11 apologizing, I might have left it as a  
12 suspension. But that's speculation because that  
13 has never happened. My point is I would listen.  
14 I would listen to what anybody had to say.

15 Q. Would you have terminated an employee  
16 if, in your opinion, after listening to the tape  
17 or reading a report, they failed to clarify a  
18 customer's misunderstanding as to whom the BOI  
19 representative actually represented?

20 A. That would be more a judgement call on  
21 my part. It most certainly could result in a

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1 name. I felt even the use of another company's  
2 name was covert and put in the mind of the  
3 customer. You know what I mean? Such as, I'm  
4 not from Sprint, but you've heard of Sprint. You  
5 know, something like that. That would have meant  
6 to me misrepresentation of magnitude. We were  
7 very strict about that.

8 Q. So the mere mention by a Business  
9 Options telemarketer?

10 A. Correct.

11 Q. As opposed to the customer.

12 A. Right. If a telemarketer just even --  
13 even to repeat back the local carrier's name,  
14 which is not a flagrant misrepresentation. But I  
15 would say, Don't do that because even that can  
16 put it in the mind of the customer. Anything  
17 that even sounded -- you represent this company,  
18 this is who you are, this is what you're selling,  
19 it's a good product. We have a good product. If  
20 anyone needs long distance, you'd have no trouble  
21 just selling this. You don't need to associate

1 termination, or a suspension certainly. And if I  
2 felt that it was -- to try to get the motivation  
3 of the sales rep. A sales rep is human too and  
4 if they were getting thrown off and if there was  
5 just some confusion on that part, and I felt that  
6 they could have more assertively made that point  
7 and failed to do so -- not as a means of  
8 misrepresenting but just failed to control their  
9 own conversation like they should have, that  
10 might have been a probation, for example.

11 Q. Just to make sure that we're all  
12 clear, my question went to -- or did not go to a  
13 situation where the telemarketer expressly says,  
14 I'm from AT&T or I'm from Ameritech. It's where  
15 they fail to clarify a customer's statement, such  
16 like Mr. Hawa was saying, where a customer would  
17 say, Do you mean Bell South?

18 A. Well, no. In that case, it's  
19 termination. That's pretty clear. The way  
20 you're asking that question, that's fairly clear.  
21 To represent yourself as -- to align yourself

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1 with, try to impress upon the customer that  
2 you're with -- you know what I'm saying? You  
3 don't have to come out and say it.

4 It's pretty obvious when someone is  
5 trying to represent an association with these  
6 companies. That's a terminable offense. The  
7 failure to clarify Business Options, independent  
8 of any other company -- no other company even  
9 comes up -- that's where I would try to apply  
10 some gradient judgment. Why they failed, how  
11 they failed to clarify, why they failed to  
12 clearly get across Business Options' name. If  
13 they did not represent themselves as Business  
14 Options, and they omitted that, that's  
15 terminable. That's an easy call.

16 Q. But I believe -- you may have answered  
17 this but I just want to be sure we're clear on  
18 this. If you had a Business Options telemarketer  
19 that called up a customer and a customer didn't  
20 understand who the Business Options rep was  
21 representing, and the customer then said, Do you

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1 mean to say you're from Ameritech, and the  
2 Business Options telemarketer did not clarify  
3 that.

4 A. That's an easy call.

5 Q. Pardon me?

6 A. That's a very easy call.

7 Q. Termination?

8 A. Oh, yeah.

9 Q. Okay.

10 A. I would in that case have to hear my  
11 telemarketer say, No, I'm not from that place. I  
12 would have to hear that no as an affirmative and  
13 definitive response to that question. Otherwise,  
14 I would consider there to be misrepresentation  
15 there.

16 Q. And that's a judgment call on your  
17 part, right?

18 A. Well, those are easy. When I say  
19 judgment calls, I'm talking about where there's  
20 some thought involved. That's an easy call. It  
21 is my judgment, but that's an easy call.

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1 Q. So let's say hypothetically something  
2 like that had occurred between May 2002 and  
3 January or February 2003 when you were in the VPA  
4 position, you would have terminated an employee?  
5 And I realize we're talking hypothetical here.

6 A. Absolutely. That would not have been  
7 a discussion. What I would have done there is I  
8 would have listened to the tape. If I got a  
9 report of that nature, on that case, the tape  
10 would have been played back for the rep  
11 specifically. What I would do is, I would have  
12 called in the rep -- and I would have generally  
13 done this with my division manager present  
14 because I like a witness on some of these cases.  
15 There are certain cases where I just chose to  
16 have a witness present, such as a female rep. I  
17 just did. I would play the tape. I would at  
18 least hear their side, but we would -- if I had  
19 already heard the tape and made the decision on  
20 the basis of the tape -- I would have heard the  
21 side of the rep. But having heard the tape

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1 myself, I likely would have started the  
2 termination process. I would be playing for the  
3 rep as a courtesy.

4 Q. Okay. Did you have any discussions  
5 with Mr. Brzycki about these particular issues?

6 A. Very few, if any.

7 Q. Do you remember what Mr. Brzycki's  
8 advice to you was, if any?

9 A. I just found Mr. Brzycki to be very  
10 uncooperative. I don't have any -- I don't mean  
11 to pick on Mr. Brzycki here but you asked me  
12 about him, and my answer is, he was just largely  
13 unresponsive and not confident and I chose to not  
14 get his advice. It took me a while to know this.  
15 I don't dislike the man. I actually found him to  
16 be personable when I first met him, not even  
17 knowing what his position was.

18 If I may, the first day I was in the  
19 company, waiting in the reception area, it caught  
20 my attention the work he wasn't doing. And I  
21 don't say that later. At the time I'm thinking,

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1 What's his job? Why isn't he working harder?  
2 You know what I mean? It was very funny later on  
3 to discover that I was going to replace this man.  
4 It was just one of those things.

5 And the woman at the reception desk  
6 ended up being my divisional manager later on, as  
7 it turned out. The point is I don't have -- no,  
8 I got no advice from him. I decided later that I  
9 didn't want any. It was about July the 5th I  
10 think we were in the office where I thought, This  
11 is not someone I should be listening to because  
12 this guy has problems. I actually sought to  
13 unlearn and eliminate some of his policies.

14 To be very honest with you, I actually  
15 asked Kurtis at one point -- I'm going to be very  
16 frank here -- I said to Kurtis in his office -- I  
17 think this was the 5th of July -- the office was  
18 empty. We were shut down for the 4th of July. I  
19 think my exact question was, I don't know this  
20 guy, Kurtis, he's your friend, he's worked here  
21 eight years, I'm sure you love him, but is he

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1 here to sabotage you?

2 And those were my exact words. I'm  
3 telling you this honestly because that's what I  
4 said, having been at the company seven weeks.

5 So my broad answer to you is no, I got  
6 no advice from him. I sought none after a few  
7 short weeks there, realizing that this was not  
8 someone who was here to help me. It was a bit  
9 frustrating I admit, because here I am new to an  
10 entire industry, new to the company, new to the  
11 city, new to the state. You just couldn't find  
12 apprenticing. It would have helped quite a bit,  
13 I think. So at that point I realized I was sort  
14 of -- no one took my paddle. I'm drifting here.  
15 I could have had some help and realized I wasn't  
16 going to get it here.

17 Q. Did any of the policies that you tried  
18 to unlearn that you learned from Mr. Brzycki have  
19 to do with terminating or not terminating  
20 telemarketers for the situation that we just  
21 discussed?

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1 A. The answer is no as per my  
2 recollection. At the time, something that I  
3 brought to the company that didn't exist before,  
4 I think, was just a little more organization on  
5 the terminations, as I understand it. I don't  
6 know that it's because I was there. Terminations  
7 were occurring in other parts of the company.  
8 Others could terminate. And when I got there,  
9 the policy was that they all had to go through  
10 me.

11 Q. Okay. Very briefly I want to talk  
12 about the directive that you wrote in December of  
13 2002 or January or February of 2003 that's called  
14 When to Stop a Sale.

15 A. I believe that's the exact title.

16 MR. HARKRADER: The memo you have in  
17 your car, does that sound like the one you're  
18 referring to?

19 MR. HAWA: That is the one I'm  
20 referring to. I'll bring it in. By the way, I'm  
21 getting other documents too. I'm hoping to have

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1 them by lunch.

2 MR. HARKRADER: That's great. Thank  
3 you.

4 BY MR. HARKRADER:

5 Q. Why did you feel compelled to write  
6 that policy?

7 A. There was a sale that -- I'm trying to  
8 recall. I don't know if it came through on  
9 customer service or what, but somehow a sale came  
10 to my attention. And in all honesty, it was a  
11 clean sale. I mean that honestly. It was a  
12 clean sale. The pitch was correct, and there was  
13 no misrepresentation. And I'm not totally  
14 convinced it actually went through as a sale. My  
15 recollection is weak on that. But I couldn't  
16 find a policy that I could cite to discipline  
17 this employee.

18 And you're probably saying, why did  
19 you want to discipline him if it was clean?  
20 Well, because it was just not right. Because  
21 this customer was too old to know what was going

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1 on. And so I felt, You know what? We just need  
2 to not sell to -- and, again, the rep doesn't  
3 know who they're calling and wants to make a sale  
4 and does not have the appreciation from the  
5 company standpoint that this might not be someone  
6 to pursue. They made the sale, of course. I  
7 have in my records that they did. But I thought,  
8 you know what, we need to avoid -- I think the  
9 daughter called back or something to customer  
10 service and said something like, My mom is 90 and  
11 she didn't know what she was buying. And I  
12 listened to the tape, and it was a clean sale.  
13 So I just wanted to -- for community  
14 relations purposes, I think more than anything  
15 else -- I thought, this isn't right. We're a  
16 reputable company. We're trying very hard to set  
17 standards in the telecom industry and we're doing  
18 that. So let's include that we're just going to  
19 not sell, we're going to have to get our people  
20 to be professional and perceive when you have  
21 someone who is truly aged. Or, again, I also

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1 thought of diminished capacity, although I never  
2 had that example. I just wanted more  
3 professionalism in that.  
4 Q. Was that made a policy?  
5 A. It's an actual policy in the company.  
6 Got approved. Not like the policies you see in  
7 some of the documents.  
8 Q. Were there any other -- was it just  
9 that one particular sale that prompted that?  
10 A. Just that one sale. That's all. It  
11 had not happened prior but it was enough for me.  
12 Q. Did you feel like when you wrote that  
13 policy that you were helping to kind of turn the  
14 company in a new direction?  
15 A. Oh, I think it really reflected the  
16 direction that Kurtis and Keanan really wanted  
17 for us. When I came on board, that was just  
18 something Kurtis emphasized to me. That's why I  
19 wrote it. I thought it was reflective of -- I  
20 really got the idea and maintained the same  
21 discipline that -- let's be honest, the

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1 telemarketers don't have the highest reputation  
2 in the world, don't have the highest standards of  
3 morality.  
4 Q. You're talking to a lawyer.  
5 A. And we were just trying to change  
6 that, you know. We have a good product. We want  
7 it to be properly represented. We want people to  
8 know what they're buying. We have nothing to be  
9 ashamed of, and we want our people to reflect  
10 that. So I wrote this policy in that spirit.  
11 This is PR, nothing else. We're just not going  
12 to do this. I don't care if it'll make a sale,  
13 even if it's a clean sale, we're not going to  
14 sell to someone who is 90 years old.  
15 Q. But nevertheless, you felt this needed  
16 to be clarified?  
17 A. Yes. Well, the thing is, you can't  
18 discipline someone if you don't have it as a  
19 policy. I can't correct them. I can't stop a  
20 practice if I don't have some reference to what  
21 they're doing, they can't do.

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1 Q. Do you remember when that sale took  
2 place?  
3 A. I'm going to say, again, later in my  
4 tenure there. Late winter. We're also talking  
5 post November.  
6 Q. Do the names Bessie Goodbrake  
7 (phonetic) or James Stack (phonetic) mean  
8 anything to you?  
9 A. Nothing.  
10 Q. Was that policy in effect or was any  
11 similar policy in effect in the first eight  
12 months of 2002?  
13 A. Not that I know of. Only the policy  
14 of proper representation. And then, of course,  
15 it largely wasn't a problem because it's the kind  
16 of thing that verification should pick up, and  
17 does. It almost always does. And it might even  
18 be in this case that they did. But I wanted it  
19 to be solved prior to that. These sales would  
20 almost never go through on a verification. So I  
21 would never hear it because there would never be



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1 a sale. Maybe this did, and I don't recall. But  
2 the fact is, I didn't want it to even go that  
3 far.

4 MR. HARKRADER: That's all I have.

5 EXAMINATION

6 BY MR. HAWA:

7 Q. Just one more question. You stated in  
8 your testimony earlier that you write a mean  
9 letter, not an angry letter but a good letter?

10 A. Seem to.

11 Q. You like writing directives and  
12 letters when the occasion arises?

13 A. I do.

14 Q. So it's not unusual at all that one  
15 needs you to draft policy because you like  
16 drafting policy?

17 A. The truth is, anybody in the company  
18 can -- well, not anybody. We can all write  
19 policies. Most of the executives can write  
20 policies. And I did enjoy it.

21 Q. But the specific question is, one

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1 incident could lead you to draft a policy?

2 A. Oh, yes. Exactly. And this one  
3 incident did.

4 MR. HAWA: I have nothing further.

5 MR. HARKRADER: Thank you very much.

6 MR. HAWA: We're done.

7 COURT REPORTER: Signature?

8 MR. HARKRADER: You have the  
9 opportunity to review the transcript and to sign  
10 it.

11 THE WITNESS: Is that common? I don't  
12 feel it's necessary.

13 MR. HARKRADER: Some people do it.  
14 Some people don't. It's all a matter of personal  
15 choice.

16 THE WITNESS: I decline. That's fine.  
17 I trust you.

18 MR. HARKRADER: As far as that goes,  
19 you have placed trust in the court reporter. Now  
20 there may be some instances where name spellings  
21 are a little bit odd. And as far as that goes,

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1 collectively we'll do our best to try to make  
2 sure the names that you have mentioned in your  
3 testimony are spelled properly.

4 THE WITNESS: That's okay. I'm fine.  
5 I'm very comfortable. I can't imagine that I  
6 need to review the entire transcript just to  
7 verify names.

8 MR. HARKRADER: But we have your  
9 correct address.

10 THE WITNESS: You do now.

11 MR. HARKRADER: Okay. We can go off  
12 the record now.

13 (Reading and signing requested. )

14 (Deposition concluded 3:30 p.m.)

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1 CERTIFICATE OF REPORTER/NOTARY PUBLIC

2 STATE OF INDIANA, to wit:

3 I, MARYANN HERR, a Notary Public of  
4 the State of Indiana, do hereby certify that the  
5 within-named witness personally appeared before  
6 me at the time and place herein set out, and  
7 after having been duly sworn by me, according to  
8 law, was examined by counsel.

9 I further certify that the examination  
10 was recorded stenographically by me and this  
11 transcript is a true record of the proceedings.

12 I further certify that I am not of  
13 counsel to any of the parties, nor in any way  
14 interested in the outcome of this action.

15 As witness my hand and notarial seal  
16 this 29th day of July, 2003.

18 -----  
19 MaryAnn Herr  
20 Notary Public

21 My Commission Expires: 07-06-09

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1 DATE SENT: July 29, 2003  
2 ERRATA SHEET  
3 DEPOSITION OF: Gene Chill  
4 DATE: July 17, 2003  
5 IN THE MATTER OF: Business Options, Inc.  
6  
7 INSTRUCTIONS:  
8 1. Please read the transcript of your deposition  
9 and make note of any corrections or changes  
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13 such as:  
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15 B. To clarify record.  
16 C. To conform to the facts.  
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1 CERTIFICATE OF DEPONENT  
2 I hereby certify that I have read and  
3 examined the foregoing transcript, and the same  
4 is a true and accurate record of the testimony  
5 given by me.  
6 Any additions or corrections that I  
7 feel are necessary, I will attach on a separate  
8 sheet of paper to the original transcript.  
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GENE CHILL

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<p><b>-#-</b></p> <p>#260 [1] 165:20</p> <p><b>-*-</b></p> <p>'03 [1] 15:3</p> <p>'57 [1] 5:2</p> <p><b>-0-</b></p> <p>0007179054 [1] 1:8</p> <p>07-06-09 [1] 164:20</p> <p>08-85 [1] 1:4</p> <p>08452 [1] 42:6</p> <p><b>-1-</b></p> <p>1 [5] 60:10 72:1 75:5 82:8 165:7</p> <p>1,500 [1] 41:16</p> <p>1-800-947-DEPO [1] 1:21</p> <p>10 [24] 46:16 60:4 82:4,7 82:20 84:15 85:3,21 86:4 86:11 87:1,19 89:3 90:2,4 97:6 128:18,21 129:14,16 129:19 130:8,15 131:7</p> <p>11 [24] 46:16 47:1,14 48:16 57:8 63:9,18,19 86:3,7 89:20 90:12,21 115:13,16,20 117:6 128:20 129:13,19 130:7 131:16 144:17 145:8</p> <p>119 [1] 3:4</p> <p>12 [1] 90:8</p> <p>1200 [1] 2:5</p> <p>12th [1] 2:10</p> <p>140 [1] 3:5</p> <p>15 [1] 53:10</p> <p>1521 [1] 4:19</p> <p>161 [1] 3:6</p> <p>17 [2] 1:12 165:4</p> <p>1st [16] 7:2 45:1 60:2 61:3 62:5 63:17 64:4 66:3 71:19 75:3 91:5,19 105:13 115:12 119:6 132:3</p> <p><b>-2-</b></p> <p>2 [2] 51:2 165:10</p> <p>2002 [24] 5:19 7:1,2 8:8 12:13 13:13 15:19 45:1 50:11 53:9,10 54:12 58:10 59:8 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THE MATTER OF: BUSINESS OF THONS, INC.  
Deposition of Gene Chill

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